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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,777	11/21/2001	M. Kevin Sorrels	5588-00101	1822

7590 06/20/2003  
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EXAMINER

PATEL, TAJASH D

ART UNIT PAPER NUMBER

3765

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/990,777

Applicant(s)

SORRELS, M. KEVIN

Examiner

Tejash D Patel

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 3/21/03 (Amdt A).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 12-24, 27-30 and 32-35 is/are rejected.
- 7) ☒ Claim(s) 10, 11, 25, 26 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 U.S.C. § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9, 12-24, 27-30, and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sorrels (US 5,450,626) in view of Cutshall (US 5,231,700). Sorrels discloses a guard (10) including a distal portion having a protective portion (40,42) of a body being penetration resistant, col. 2, lines 41-48, with a less protective portion (44), col. 3, lines 18-22 and as shown in figure 3. Further, an end of the body is uncovered so that a pad of the digit extends therethrough without covering a medial joint thereof as shown in figures 1 and 2. Additionally, the body covers a substantial portion of a medial joint that is configured to contact a distal portion of the digit as shown in figure 5, 6, and 8.

A bead of material is formed between the protective and less protective portions as shown in figure 3, with the protective portion having a longer length than the less protective portion as shown in figures 2 and 4. However, Sorrels does not show the protective portion having a different color than the less protective portion.

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Cutshall discloses a cut and puncture resistant guard for a digit (30-34) of the hand including a protective, penetration resistant portion (40) which is colored differently from the less protective portion (21), col. 3, lines 60-61 and as shown in figure 3, so that the guard is properly worn about the hand.

It would have been obvious to one skilled in the art the time the invention was made to form the protective portion of Sorrels to be colored differently from the less protective portion as taught by Cutshall. Doing so, the proper sized guard to be worn about the hand while being cut and puncture resistant.

With regard to claims 4-6 & 12-13, it is obvious that the guard can be made of any desired material which were available at the time the device was made.

With regard to claims 19 and 20, col. 4, lines 62-64, of Sorrels discloses that the circumferential extension of the protective portion/dorsal segment can extend a greater or lesser distance thereabout. Therefore, it would have been obvious to one skilled in the art to extend the protective portion about the digit as required for a particular application or end use thereof.

With regard to claims 7 and 21-23, col. 2, lines 41-49 of Sorrels states the guard forms a sheath which protects the fingers from intravenous needles. Therefore, it would have been

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obvious to one skilled in the art that the guard can be puncture resistance to needle having various gauges depending on the particular application of the device.

***Response to Amendment***

3. The argument and amendment filed on 3/21/03 has been considered and duly noted. In view of such the objection to claim 5 has been withdrawn. However, the arguments are moot based upon a newly applied prior art (see rejection above). Therefore, this office action is being made new-non Final.

***Allowable Subject Matter***

4. Claims 10, 11, 25-26, and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication should be directed to Tejash Patel at telephone number (703) 306-9184.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, can be reached on (703) 305-1025.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

Patel/tp

June 12, 2003



Tejash Patel

Patent Examiner

AU 3765